

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

RAYMOND WOFFORD III,)
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 Plaintiff,)
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 vs.) No. CIV-16-1308-C
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HECTOR RIOS, et al.,)
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)
 Defendants.)

ORDER ADOPTING REPORT AND RECOMMENDATION

Plaintiff filed the present action pursuant to 42 U.S.C. § 1983. Consistent with the provisions of 28 U.S.C. § 636(b)(1)(B), this matter was referred to United States Magistrate Judge Shon T. Erwin. Judge Erwin entered a Report and Recommendation (“R&R”) on April 11, 2017, recommending Plaintiff’s claims against Defendant Hector Rios be dismissed without prejudice. Plaintiff has not objected to the R&R.

In the R&R, Judge Erwin sets out the facts of this case. In summary, Plaintiff filed his action alleging a violation of his constitutional rights. According to Plaintiff, Defendants failed to provide proper medical care. The present R&R addresses Plaintiff’s claims against Defendant Rios.

Judge Erwin found that Defendant Rios is entitled to dismissal as Plaintiff has failed to state a claim for relief as to Defendant Rios. Judge Erwin recommended the Court dismiss the claims against Defendant Rios without prejudice and with leave to amend. As noted above, Plaintiff has not objected to the R&R. After review, the Court finds Judge

Erwin's analysis of the issues well founded. Plaintiff has failed to state a claim for relief as to Defendant Rios. However, because it may be possible for Plaintiff to cure the deficiencies, the dismissal will be without prejudice.

Accordingly, the Court adopts, in its entirety, the Report and Recommendation of the Magistrate Judge (Dkt. No. 25). For the reasons set forth in the R&R and this Order, Plaintiff's claims against Defendant Rios are DISMISSED without prejudice. If Plaintiff wishes to pursue his claims against Defendant Rios, he must file an Amended Complaint correcting the issues noted by Judge Erwin. Any Amended Complaint must be filed within 20 days of the date of this Order. This matter is returned to Judge Erwin for further proceedings consistent with the original Order of Referral.

IT IS SO ORDERED this 21st day of June 2017.



ROBIN J. CAUTHRON
United States District Judge